APPENDIX

[Not to be printed or submitted to West for publication]

(Filed Apr 2 1968)

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21,160

J. STERLING HALSTEAD, *Appellant*

v.

REFINED SYRUPS AND SUGAR, INC., *Appellee*

Appeal from the United States District Court for the District of Columbia

Decided April 2, 1968

MR. J. STERLING HALSTEAD, appellant pro se.

MR. PAUL H. MANNES, with whom MR. SHELDON E. BERNSTEIN was on the brief, for appellee.

Before DANAHER, TAMM and LEVENTHAL, *Circuit Judges.*

Per Curiam: After consideration of the contentions urged by plaintiff-appellant, we affirm the summary judgment dismissing with prejudice the complaint to establish a constructive trust on certain property received by Corn Products Refining Co., and prevent unjust enrichment. On the undisputed facts defendant-appellee is entitled to judgment as a matter of law for any one of several alternative reasons:

(1) Plaintiff seeks to impose a constructive trust on property (980 shares of Corn Products stock) received

by Corn Products, yet he has sued as defendant not Corn Products, but only its subsidiary, an Ohio corporation.

(2) The complaint does not attack either (a) the October 1, 1958 agreement whereby plaintiff's claim against defendant's predecessor for a pension was settled through agreement for defendant to employ plaintiff at $12,000 a year for 9 years, or (b) the prior September 15, 1958 agreement whereby defendant's predecessor delivered the 980 shares to Corn Products as an indemnification (because of plaintiff's claim asserted against the company whose assets were transferred to Corn Products).

(3) Plaintiff received substantial payments under the October agreement and the parties have changed their position because of it. Defendant's predecessor (the New York corporation) had to make a payment in indemnification (of the 980 shares) which have since changed in value. If plaintiff had a claim it would be barred by the statute of limitations or laches.

(4) Insofar as plaintiff asserts a legal theory that he can sue as third party beneficiary of the September agreement, that agreement plainly shows on its face that it was in no way entered into for plaintiff's benefit. Plaintiff's claim presented a problem which the parties set about working out with each other, not for his benefit but for their own mutual objective.